

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEES:

HEALTH

SOCIAL SECURITY

TRADE

COMMITTEE ON AGRICULTURE

SUBCOMMITTEES:

GENERAL FARM COMMODITIES AND
RISK MANAGEMENT

CONSERVATION, CREDIT, ENERGY,
AND RESEARCH

RURAL HEALTH CARE COALITION
Co-CHAIR



Earl Pomeroy
Congress of the United States
North Dakota
October 6, 2010

WASHINGTON OFFICE:

1501 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2611

REP.EARL.POMEROY@MAIL.HOUSE.GOV

DISTRICT OFFICES:

ROOM 328, FEDERAL BUILDING
220 EAST ROSSETT AVENUE
BISMARCK, ND 58501
(701) 224-0355

3003 32ND AVENUE S
SUITE 6
FARGO, ND 58103
(701) 235-9760

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Hazardous and Solid Waste Management System; Identification and Listing of Special
Wastes; Disposal of Coal Combustion Residuals from Electric Utilities; Docket ID No.
EPA-HQ-RCRA-2009-0640

Dear Administrator Jackson:

I am writing in reference to the proposed rule regarding the regulation of the disposal of coal combustion byproducts (CCB) that was published on June 21, 2010. I believe that it is vital that any regulation that is put in place protect human health without placing significant financial and regulatory burdens on the economy.

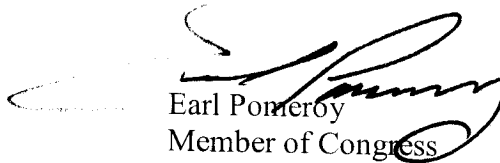
In the past I have joined with a bipartisan group of over 100 of my colleagues to strongly urge the Environmental Protection Agency (EPA) to avoid listing CCB as a listed waste under subtitle C of the Resource Conservation and Recovery Act (RCRA). Listing CCB under subtitle C will have little additional positive benefits, but would place significant burdens on electricity producers in North Dakota and around the country. For example should CCB be listed under subtitle C, existing facilities that handle the disposal of hazardous wastes would be overwhelmed resulting in the need to establish expensive new disposal facilities. In North Dakota alone additional regulatory costs would be in the range of several hundred million dollars a year.

If the EPA were to instead develop regulations under the non-hazardous waste controls of subtitle D of RCRA for CCB, an approach that is consistent with more than a decade of work by the EPA, the same protections can be achieved without placing crushing costs on electric power generators that will likely be passed on to consumers. Additionally, there are significant beneficial uses for CCB, which have helped to lower construction costs for highway and other infrastructure construction projects. Liability concerns would mean that by listing CCB as a hazardous waste under subtitle C, even if there is a beneficial use exemption, markets for these products would immediately dry up, costing thousands of jobs.

The EPA has found time and time again that CCB disposal can and has been adequately regulated under tools available to it that are much less severe than subtitle C regulation. In fact recently the EPA stated that disposal of CCB from the Kingston TVA spill that occurred in December of 2008 in a subtitle D landfill would fully protect human health and the environment.

Regulation under subtitle C of RCRA would end desirable beneficial uses of CCB, significantly increase regulatory and disposal costs resulting in increased electricity rates and cost a significant number of jobs. It does not make sense to take such a step when an option is available that will provide the same environmental benefit without the same significant negative economic effects. I would strongly encourage EPA to choose the option of regulation under subtitle D of RCRA in its final CCB rule and thank you for your attention to this matter.

Sincerely,



Earl Pomeroy
Member of Congress